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EX PARTE OR LATE FILED

February 2, 1998

Ex Parte Filing

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128

Dear Ms. Salas:

On behalf of the Consumer-Business Coalition for Fair Payphone 800 Fees, Robert Digges, Jr., Vice President and Deputy Chief Counsel of the ATA Litigation Center, and Sara F. Seidman and I, both of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., met today with Kyle D. Dixon, Legal Advisor to Commissioner Michael K. Powell, to discuss matters pertaining to the above-referenced docket. Specifically, we discussed the procedural status of the payphone compensation proceeding, the impact the FCC's per-call compensation scheme has on 800 service subscribers, and the limitations of call blocking as an alternative to paying per-call compensation. A copy of the attached document was provided to Mr. Dixon at the meeting.

An original and one copy of this letter are being submitted to you in compliance with 47 C.F.R. § 1.1206(a)(2) to be included in the record in this proceeding. Any questions concerning this submission should be addressed to the undersigned.

Respectfully submitted,

Yaron Dori

Yaron Dori

Attachments

cc: Kyle D. Dixon
Sara F. Seidman

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The Consumer-Business Coalition
For Fair Payphone 800 Fees

<u>The FCC's Per-Call Compensation Rate For Payphones Should Be Reduced</u>

• **Background.** The FCC recently determined that 800-number users must pay owners of payphones 28.4¢ for each call made to their 800 numbers from payphones.

• **The law only requires that payphone providers receive "fair compensation" for 800-number calls.** There is nothing in the Telecommunications Act of 1996, the Communications Act of 1934, or their respective legislative histories that suggests that payphone providers require compensation at such a high rate.

• **"Fair compensation" suggests that the per-call compensation rate should be set at cost.** An incremental cost-based mechanism – the same mechanism used by the FCC to determine the pricing structure in the local exchange market – should be implemented in the payphone market, resulting in a per-call compensation rate of approximately 6¢ per call.

• **The 28.4¢ rate amounts to a windfall for payphone providers.** The cost of connecting an 800-number call is far below the 28.4¢ rate. The windfall received by payphone providers will enable them to protect their market share and prevent competitors from entering the marketplace.

• **The 28.4¢ compensation rate for 800-number payphone calls is onerously high.** The impact of the new surcharge will be tremendous on the many businesses that currently receive thousands of 800-number calls per day from payphones.

• **Small businesses and public interest organizations are especially hard hit by the 28.4¢ rate.** These businesses and organizations have very little leverage in reducing the rates they must pay long distance providers for 800-number service.

• **Payphone users have no real alternative to paying the high 28.4¢ rate.** Because there is virtually no payphone competition at any particular location (<u>e.g.</u>, truckstops, airports, hotels), users have no real choice of which payphone provider to use.

• **Even if real payphone competition existed, 800-number users would still be harmed by the FCC's ruling.** Because the party dialing the 800 number is not directly paying for the call, that party has little incentive to search out the least expensive payphone alternative. This saddles the 800-number subscriber with whatever charges the call may incur.

• **"Blocking" of payphone 800 calls is not a viable alternative for most businesses.** Businesses establish 800 numbers so that customers and employees can call them from any location toll free. Because there is no meaningful payphone competition, the FCC's suggested solution of blocking incoming 800 calls from some payphones would be counterproductive and potentially fatal to a company's business prospects.

• **"Blocking" is not even possible yet at many locations.** The FCC extended until March 1998 the requirement that payphone providers upgrade their telephones to allow blocking. Therefore, even if they so desired, 800-number subscribers are unable to block incoming calls from 40% of all payphones.